

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed December 21, 2007. Reconsideration and allowance of the application and pending claims are respectfully requested.

### **I. Claim Rejections - 35 U.S.C. § 103(a)**

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden 35 U.S.C. § 103 to establish obviousness by showing objective teachings in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). The key to supporting an allegation of obviousness under 35 U.S.C. § 103 is the clear articulation of the reasons why the Examiner believes that claimed invention would have been obvious. See MPEP § 2141. As stated by the Supreme Court, "[r]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR v. Teleflex*, 550 U.S. at \_\_\_, 82 USPQ2d at 1396 (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

Applicant respectfully submits that the Examiner has not established that Applicant's claims are obvious in view of the prior art. Applicant discusses those claims in the following.

#### A. Rejection of Claims 1-3, 5, 6, 8, 10-12, 14, 24, 25, and 27-31

Claims 1-3, 5, 6, 8, 10-12, 14, 24, 25, and 27-31 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Yairi, et al.* (“*Yairi*,” U.S. Pub. 2004/0078424) in view of *Boucher, et al.* (“*Boucher*,” U.S. Pat. No. 2003/0212739). Applicant respectfully traverses.

Applicant’s independent claim 1 provides as follows (emphasis added):

1. A method for collecting data regarding service operation, the method comprising:

a client sending a message *using a web protocol* to a web service on the Internet;

a network proxy intercepting the message before it reaches the web service;

the network proxy *storing profiling information about the message in a database that is separate from the web service*, the profiling information including the time the message was received by the network proxy; and

the network proxy transmitting the message to a destination web service.

In the Office Action, it is alleged that *Yairi* teaches the invention substantially as claimed in claim 1. Therefore, it is alleged that *Yairi* teaches a client “sending a message using a web protocol to a web service on the Internet”. To support that allegation, it is noted in the Office Action that *Yairi* describes an “IM client 113 sending a message to a web server 125 via a proxy 103”. Although *Yairi* does disclose an IM client 113 sending a text message over a voice network 131, it is clear that the IM client does not send a message “using a web protocol” as is explicitly required in Applicant’s claim 1. In

addition to the fact that the message is sent over a voice network, that the message is not sent using a web protocol is clear from the fact that the message is received by the web service proxy 103 which translates the message into a web format. See *Yairi*, paragraph 0026. Indeed, that is the purpose of *Yairi*'s web service proxy 103: translating non-web protocol messages into web protocol messages.

It is further alleged in the Office Action that *Yairi* teaches "the network proxy storing profiling information about the message in a database that is separate from the web service". For support, the Office Action identifies the web service proxy 103. In response, Applicant notes that the web service proxy 103 is not described anywhere in the *Yairi* reference as storing "profiling information" about a message sent by a client. Instead, as described above, *Yairi*'s web service proxy 103 merely translates text messages for web services 121, 123, and 125. Applicant further notes that the database 133 is not ever described by *Yairi* as storing such profiling information. Instead, *Yairi* indicates that the database 133 stores:

any data needed for the interaction between the end user and a requested web service. The stored data may include web service description metadata, web service composition metadata, or web service workflow logic. The stored data may additionally include program control logic, payment information, or any other information about the web service or web service provider that may be presented to the user, e.g., during web service discovery or activation. This stored data may subsequently be referred to either collectively or specifically as web service metadata or simply as metadata.

*Yairi*, paragraph 0027. Clearly, the “data needed for the interaction between the end user and a requested web service” is not the “profiling information” explicitly recited in Applicant’s claim 1.

The Office Action admits that *Yairi* does not disclose or suggest a network proxy storing profiling information “including the time the message was received by the network proxy”. The Office Action attempts to account for that limitation with the *Boucher* reference, which is alleged to disclose storing profiling information including the time a message was received by a proxy. In response, Applicant respectfully submits that the *Boucher* reference discloses nothing of the sort. Although *Boucher* identifies a Store and Forward Proxy 12, nowhere does *Boucher* indicate that proxy stores “profiling information” about a received message or that the stored profiling information includes “the time the message was received”. Instead, *Boucher* only indicates that the proxy writes a request to a database “if the request cannot be completed immediately.” See *Boucher*, paragraphs 0144, 0147, 0151, 0154, and 0157.

In view of the foregoing, it is clear that the applied references do not disclose or suggest all of the limitations of claim 1. Applicant therefore submits that claim 1 and its dependents are allowable over those references. Applicant further submits that claim 24 and its dependents are allowable for similar reasons.

## **B. Rejection of Claims 7 and 26**

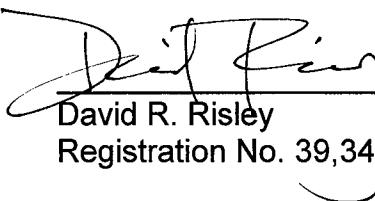
Claims 7 and 26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Yairi* and *Boucher* in view of *Carson, et al.* (“*Carson*,” U.S. Pub. No. 2004/0093580). Applicant respectfully traverses the rejection.

As identified above, Yairi and Boucher do not teach aspects of Applicant's claims. In that Carson does not remedy the deficiencies of the Yairi and Boucher references, Applicant respectfully submits that claims 7 and 26 are allowable over the Yairi/Boucher/Carson combination for at least the same reasons that claims 1 and 24 are allowable over Yairi.

## CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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